

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

DESTRY JAMES PAYNE,

Plaintiff,

Case No. 15-cv-14127

v.

Honorable Thomas L. Ludington

DAWN KLIDA, et al.,

Defendants.

**ORDER ADOPTING REPORT AND RECOMMENDATION AND DISMISSING
PLAINTIFF'S COMPLAINT**

On November 24, 2015, Plaintiff Destry James Payne filed a pro se complaint against Defendants Dawn Klida, Kurt Asbury, Daniel Gillman, John Doe, and Jane Doe. *See* Pl.'s Compl., ECF No. 1. Payne paid the civil case filing fee and summons issued for the named Defendants. *See* Summons, ECF No. 2. At the time of filing, Payne did not provide any form of contact information—he is not an efiler. Indeed, he is not required to. But his lack of contact information means there is no way to notice Payne directly. Accordingly, the Court directed that all documents filed on the public docket will be deemed to have been served upon Payne. His case was then referred to Magistrate Judge Morris for report and recommendation.

On January 6, 2016, Magistrate Judge Patricia T. Morris issued a report recommending that Plaintiff's case be dismissed *sua sponte* for failing to state a claim upon which relief can be granted. *See* Rep. & Rec., ECF No. 10. Judge Morris found that at the time of filing his case, Payne was a prisoner as defined by 28 U.S.C. § 1915A. Accordingly, he is subject to the screening procedures set forth therein. Because Payne's complaint did not state a claim upon which relief may be granted, Judge Morris concluded that § 1915A required dismissal.

Although the Magistrate Judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within fourteen days of service of the report, neither Plaintiff nor Defendants filed any objections. The election not to file objections to the Magistrate Judge's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). The failure to file objections to the report and recommendation waives any further right to appeal.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation, ECF No. 10, is **ADOPTED**.

It is further **ORDERED** that Plaintiff Destry James Payne's complaint, ECF No. 1, is **DISMISSED with prejudice**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: February 8, 2016

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on February 8, 2016.

s/Michael A. Sian
MICHAEL A. SIAN, Case Manager